



MAINE STATE LEGISLATURE

OFFICE OF FISCAL AND PROGRAM REVIEW
5 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0005
Telephone: (207) 287-1635
FAX: (207) 287-6469

Solid Waste Landfills: Closures & Remediation;
History and Costs

Statutory History

The Solid Waste Landfill Remediation and Closure program was established within the Department of Environmental Protection by the Legislature in 1988. P.L. 1987, Chapter 517 established the program to accomplish the following initial objectives:

1. to promptly close those solid waste landfills that posed a potential or actual hazard to the environment and public health.
2. to remediate existing hazards posed by solid waste landfills.

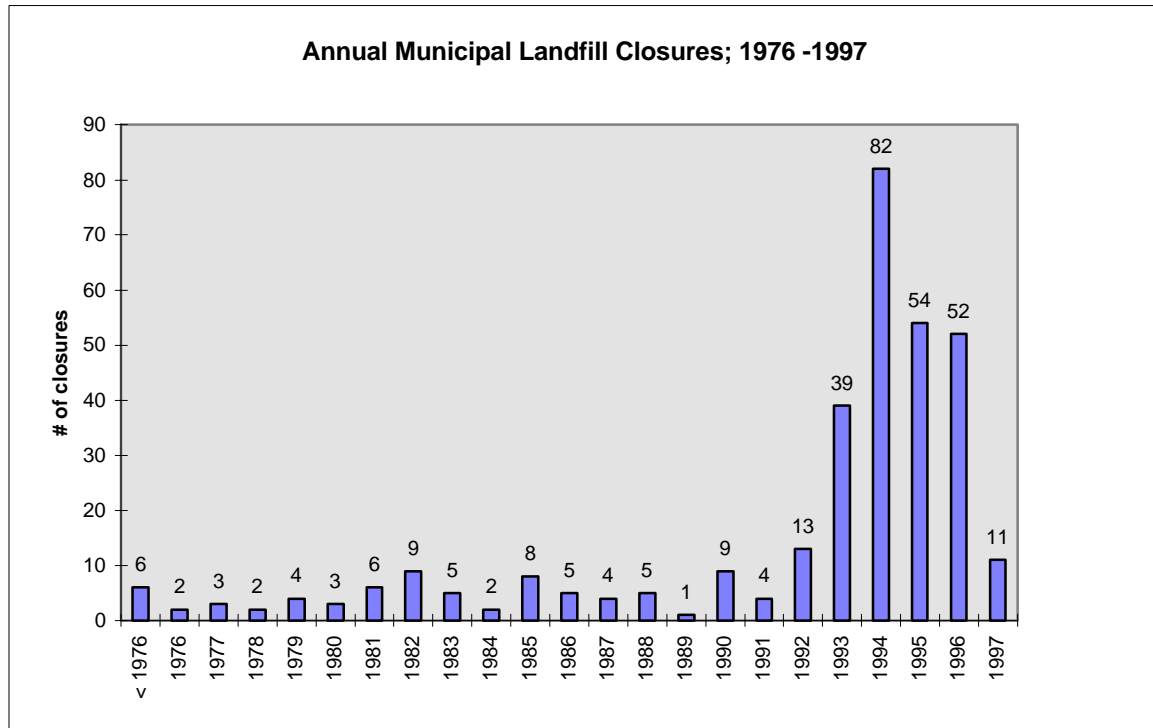
To accomplish the closure and remediation of solid waste landfills, DEP was required to rank all municipal solid waste landfills on the basis of hazards posed by each to the public health and to the environment and to conduct environmental evaluations on each landfill. Each evaluation was to result in a recommended closure plan and, if necessary, a remediation plan. The final plans were to include a reasonable time schedule for closure and/or remediation. Although DEP was responsible for the evaluation and planning process, the municipality which owned a particular landfill was responsible for implementing the plan. Initially, DEP was charged with administering a grants cost-sharing program in which the state, subject to available funds, would be responsible for reimbursing eligible municipalities for 75% of closure costs and 90% of remediation costs. All municipalities which owned a landfill were deemed to be eligible for the cost-sharing program, but reimbursement for past closure costs was limited to those costs incurred after January 1, 1983.

Since the establishment of the program in 1988, several significant statutory changes have been enacted:

- P.L. 1989, c.273 allowed municipalities to claim any interest paid on municipal bonds used to raise funds for closure and remediation expenses as reimbursable costs under the state's cost sharing program;
- P.L. 1989, c. 869 allowed those sanitary districts and refuse disposal districts that owned solid waste landfills to be eligible for the state's cost sharing program;
- P.L. 1991, c. 215 extended reimbursement eligibility for past costs to those closure costs incurred since February 1, 1976;
- P.L. 1991, c. 374 added a third objective for the program: to provide markets for compost and reclaimed materials. In addition, it was mandated that, to the extent practicable, closure plans must specify the use of compost/reclaimed materials for landfill cover purposes;
- P.L. 1991, c. 519 authorized the DEP Commissioner to issue, when warranted, closing and remediation orders. In addition, the cost sharing program was expanded to allow planning costs to be reimbursable; 75% for closure and 90% for remediation;
- P.L. 1993, c. 355 prohibits the use of state funds received from a municipality through the cost-sharing program to settle civil or criminal judgments for injuries caused by a municipally-owned landfill;
- P.L. 1993, c. 732 requires that the landfill ranking conducted by DEP must establish at least 2 categories of landfills: those landfills which constitute a "high risk" to the public health and/or the environment and those landfills which do not constitute a "high risk". In addition, the evaluation process was revised to specify that municipalities must cooperate with DEP in the evaluation process by providing reasonably available and relevant materials requested by the department. This law also revised the closure procedures by allowing, under certain favorable circumstances, an expedited, reduced closure procedure. Finally, the cost-sharing fraction for closure costs was revised to 75% for costs incurred prior to July 1, 1994, for municipalities that submitted a signed closure agreement to the department prior to July 1, 1994. For municipalities without a signed agreement, the cost sharing fraction was reduced to 50% for costs incurred after July 1, 1994 but before January 1, 1996, and 30% of the costs of covering a landfill incurred after January 1, 1996;
- P.L. 1995, c. 665 changed the closure cost-share fraction again by further limiting the state's share to 30% of cover costs incurred after January 1, 1996 but before January 1, 1997. In addition, except for certain pre-approved closure schedules approved by DEP, the state's share of closure costs incurred after January 1, 1997 would be 0%;
- P.L. 1997, c. 479 revised the closure cost fractions as follows:
 - 75% of closure costs incurred before July 1, 1994;
 - 50% of landfill cover costs and 75% of other closure costs incurred on or after July 1, 1994 and before January 1, 1996;
 - 30% of landfill cover costs and 75% of other closure costs incurred on or after January 1, 1996 and before January 1, 2000;
 - In certain cases approved by DEP, 75% of all closure costs incurred on or after July 1, 1994 and before January 1, 2000; and
 - 0% of landfill costs incurred after January 1, 2000 except for 30% of certain landfill cover costs approved by DEP prior to January 1, 2000.

Results:

Dating from before 1976 to June of 1998, a total of 329 municipal landfills have been successfully closed. As shown in the following chart, a significant majority of these closures took place from 1993 through 1996.



History of Bond Issues & General Fund Appropriations:

The State of Maine has used publicly approved general obligation bond issues and General Fund appropriations to provide a total of \$75,500,000 in funding to cover the state's share of the cost of closing municipal landfills. The specific bond issues and appropriations are identified in the following list:

<u>Short Title</u>	<u>Law</u>	<u>Amount</u>	<u>Date Approved</u>
\$8 Mil for Cleaning Up & Closing Solid Waste Landfills c.70 that Pose a Hazard to Public Health & to Ground Water Quality	P&S 1987,	\$8,000,000	11/4/87
\$13 Mil for the, Cleaning Up and Closing Solid Waste Landfills,.....	P&S 1987, c. 126	\$5,000,000	11/8/88

\$6 Mil for Clean-up & Closure of Solid Waste Landfills	P&S 1989, c.81	\$6,000,000	11/7/89
\$10 Mil for...and for Closure and Remediation of Municipal Solid Waste Landfills	P&S 1991, c. 118	\$5,000,000	11/3/92
\$5 Mil for Landfill Closure & Remediation	P&S 1993, c. 50	\$5,000,000	11/2/93
\$20 Mil for Municipal Solid Waste Landfills	P&S 1993, c. 99	\$20,000,000	11/8/94
\$14 Mil for Landfill Closure.....	P&S 1995, c. 45	\$10,000,000	11/7/95
\$16.5 Mil to ...Clean-up Municipal Solid Waste Landfills	P&S 1995, c. 84	\$9,000,000	11/5/96
\$13 Mil toClose and Clean-up Municipal Solid Waste Landfills	P&S 1997, c. 561	\$4,500,000	6/5/98

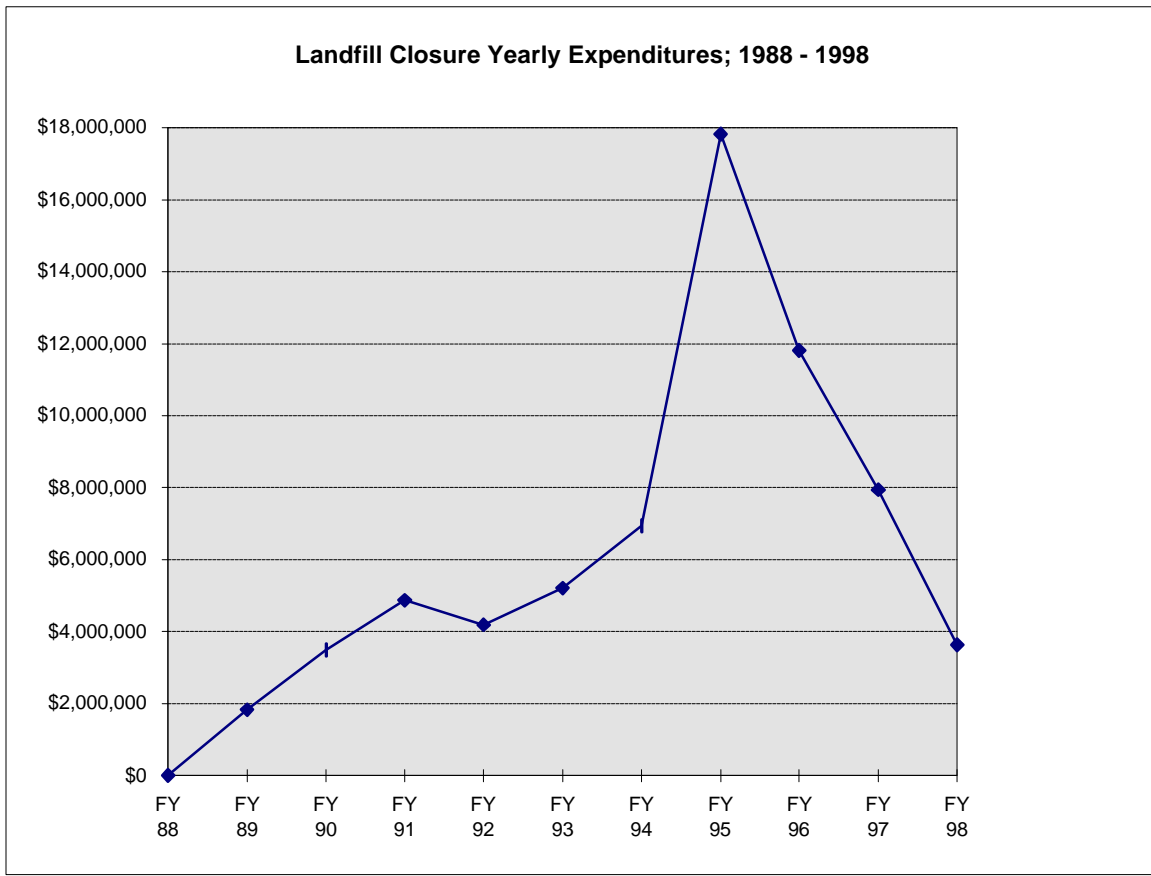
<i>Total of Voter Approved Bonds</i>	<i>\$72,500,000</i>
---	----------------------------

\$3 Mil GF appropriation in FY 98-99 for completion of landfill costs not provided by bond authorizations.	PL 1997, c. 643, sec S-6	\$3,000,000
--	--------------------------	-------------

<i>Total of State Funds</i>	<i>\$75,500,000</i>
------------------------------------	----------------------------

State Costs:

As of June 1998, approximately \$65,000,000 in state funds has been spent to close municipal landfills. The distribution of this spending on an annual basis is depicted in the following chart; most of the spending corresponds to the peak years of closures (1993-1997) shown earlier.



Use of Remaining State Funds:

The approximately \$10,500,000 in remaining state funds is budgeted to be spent on closing 15 sites by the end of FY 1999-00.

Possible Non-compliance:

According to the Department of Environmental Protection, as of July 1998 there are 26 municipal landfills which do not have finalized closure agreements. The department estimates that the closure costs for these landfills will total \$4,965,000. There is not currently any available funding to cover the state's share of closure costs if the municipalities act to qualify for state funding within the January 1, 2000 deadline. In summary, please make note that municipalities with signed closure agreements established by 7/1/94 continue at 75% state cost share rate until the end of the reimbursement period on 1/1/00. Municipalities with signed closure agreements developed and approved by the Department (after 7/1/94) may also remain eligible for 75% cost share until 1/1/00. It is those municipalities without a signed agreement that face a reduced cost share outlined in the legislation. Cost sharing for any municipality ends on 1/1/00 unless specifically approved prior to 1/1/00.

November 1998

g:\ofpr\natres\landfill.doc